

ORDINANCE NO. 5083

An Ordinance Amending Ordinance No. 5018 relating to single use bags.

RECITALS:

The City of McMinnville has previously passed ordinance 5018 relating to single use plastic bags.

The State Legislature during 2019 passed House Bill 2509 relating to regulation of single-use bags which by its provisions substantially preempted the terms and provisions of Ordinance 5018.

House Bill 2509, which will become effective January 1, 2020, does permit localities to maintain or increase penalties for violations of local ordinances that incorporate the provisions of HB 2509.

Now, therefore, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

1. The provisions set forth in Exhibit A of Ordinance 5018 are hereby amended to read as set forth on Amended Exhibit A to Ordinance 5018 attached hereto.
2. This ordinance will take effect within 30 days after its passage by the Council.

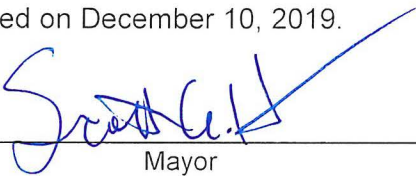
Passed by the Council on December 10, 2019 by the following votes:

Ayes: Drabkin, ~~Stassens~~, Peralta, Menke, Geary, Garvin


Nayes: \_\_\_\_\_

Abstain: \_\_\_\_\_

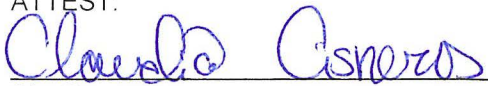
Approved on December 10, 2019.

  
 \_\_\_\_\_  
 Mayor

Approved As To Form:

  
 \_\_\_\_\_  
 City Attorney

ATTEST:

  
 \_\_\_\_\_  
 City Recorder

## AMENDED EXHIBIT A TO ORDINANCE 5018

### Chapter 5.36

#### SINGLE-USE PLASTIC CARRYOUT BAGS

5.36.010. Definitions. For the purpose of this Chapter, the following terms are defined as follows:

- (1) "Garment bag" means a large bag that incorporates a hanger on which garments may be hung to prevent wrinkling during travel or storage.
- (2) "Local provision" means a charter provision, ordinance, resolution or other provision adopted by a city, county or other local government, as defined in ORS 174.116.
- (3) "Recycled paper checkout bag" means a paper bag that contains at least 40 percent post-consumer recycled fiber.
- (4) "Restaurant" means an establishment where the primary business is the preparation of food or drink:
  - (a) For consumption by the public;
  - (b) In a form or quantity that is consumable then and there, whether or not it is consumed within the confines of the place where prepared; or
  - (c) In consumable form for consumption outside the place where prepared.
- (5) "Retail establishment" means a store that sells or for sale goods at retail and that is not a restaurant.
- (6) "Reusable fabric checkout bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth or other machine-washable fabric.
- (7) "Reusable plastic checkout bag" means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of durable plastic that is at least four mils thick.
- (8)(a) "Single-use checkout bag" means a bag made of paper, plastic or any other material that is provided by a retail establishment to a customer at the time of checkout, and that is not a recycled paper checkout bag, a reusable fabric checkout bag or a reusable plastic checkout bag.
  - (b) "Single-use checkout bag" does not mean:
    - (A) A bag that is provided by a retail establishment to a customer at a time other than the time of checkout, including but not limited to bags provided to:
      - (i) Package bulk items such as fruit, vegetables, nuts, grains, greeting cards or small hardware items, including nails, bolts or screws;
      - (ii) Contain or wrap frozen food, meat, fish, flowers, a potted plant or another item for the purpose of addressing dampness or sanitation;
      - (iii) Contain unwrapped prepared food or a bakery good; or
      - (iv) Contain a prescription drug;
    - (B) A newspaper bag, door hanger bag, garment bag, laundry bag or dry cleaning bag; or
    - (C) A bag sold in a package containing multiple bags for uses such as food storage, garbage containment or pet waste collection.

5.36.030 Regulations.

- (1) Except as provided in subsection (2) of this section, a retail establishment may not provide:
  - (a) Single-use checkout bags to customers.
  - (b) Recycled paper checkout bags, reusable fabric checkout bags or reusable plastic checkout bags to customers unless the retail establishment charges not less than five cents for each recycled paper checkout bag, reusable fabric checkout bag or reusable plastic checkout bag.
- (2) A retail establishment may provide:

- (a) Reusable fabric checkout bags at no cost to customers as a promotion on 12 or fewer days in a calendar year.
- (b) Recycled paper checkout bags or reusable plastic checkout bags at no cost to customers who:
  - (A) Use a voucher issued under the Women, Infants and Children Program established under ORS 413.500. (B) Use an electronic benefits transfer card issued by the Department of Human Services.
- (3) Except as provided in subsection (4) of this section, a restaurant may not provide:
  - (a) Single-use checkout bags to customers.
  - (b) Reusable plastic checkout bags to customers unless the restaurant charges not less than five cents for each reusable plastic checkout bag.
- (4) A restaurant may provide:
  - (a) Recycled paper checkout bags at no cost to customers.
  - (b) Reusable plastic checkout bags at no cost to customers who use an electronic benefits transfer card issued by the Department of Human Services.

#### 5.36.040. Violations and Penalties.

- (1) Notwithstanding ORS 153.018 (3), a violation of section 5.36.030 of this Chapter by a restaurant or retail establishment, as those terms are defined in section 5.36.010 above is a Class D violation subject to a maximum fine of \$250 for the first violation in a calendar year; subject to a maximum fine of \$300 for a second violation in the same calendar year; and subject to a maximum fine of \$500 for any subsequent violation within the same calendar year.
- (2) Each day that the restaurant or retail establishment commits a violation constitutes a separate offense.